

A Resolution

**IN SUPPORT OF THE APPLICATION OF THE BOBBY COX COMPANIES, INC.
TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY FOR A MUNICIPAL
SETTING DESIGNATION AT 3709 E. FIRST STREET, FORT WORTH, TEXAS**

NO. 3583-02-2008

WHEREAS, the Bobby Cox Companies, Inc., (Applicant) has filed an application for support of a resolution seeking a Municipal Setting Designation for 3709 E. First Street, Fort Worth, Texas, the metes and bounds description being attached hereto as Exhibit "A" (Site), and map of same being attached hereto as Exhibit "B" (Site Map), to the Texas Commission on Environmental Quality; and

WHEREAS, public meetings on the application were held in Fort Worth on January 23, 2008 and January 30, 2008, and a public hearing was held in Fort Worth on February 5, 2008, and the affected community was duly notified of same and allowed the opportunity to comment; and

WHEREAS, an approved public drinking water supply system exists that supplies or is capable of supplying drinking water to the Site and to locations within one-half mile of the Site; and

WHEREAS, Applicant has filed documentation with the city stating that contaminants identified within the designated groundwater, associated with historical uses of the Site, that have been detected in concentrations exceeding residential assessment levels for potable use include tetrachloroethylene (PCE) and trichloroethylene (TCE).

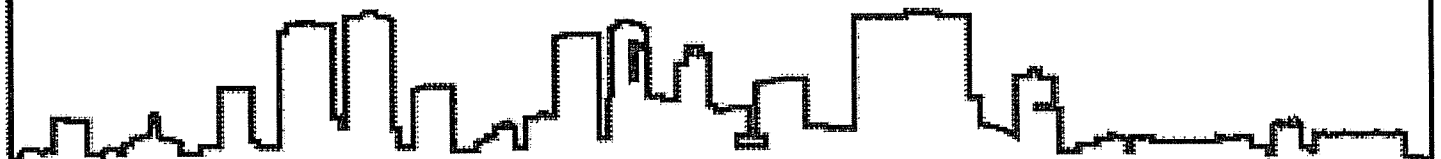
WHEREAS, Applicant has further filed documentation with the city stating that this contamination is contained within the shallow, perched groundwater beneath the Site; and

WHEREAS, the City of Fort Worth, by ordinance, has prohibited the use of designated groundwater beneath the Site for potable purposes as well as for irrigation; and

WHEREAS, upon passage of a supporting resolution by the City Council, Applicant intends to file an application with the Texas Commission on Environmental Quality for certification of a Municipal Setting Designation for the Site pursuant to Texas Health and Safety Code, Chapter 361, Subchapter W; and

WHEREAS, Applicant has continuing obligations to satisfy applicable statutory and regulatory provisions concerning groundwater contamination investigation and response actions at the Site; and

WHEREAS, the certification of a Municipal Setting Designation for the Site is in the best interests of the community.



CITY OF FORT WORTH

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF FORT WORTH, TEXAS:**

Supports Applicant's application to the Texas Commission on Environmental Quality for a
Municipal Setting Designation of the Site.

Adopted this 19th day of February 2008.

ATTEST:

By: Marty Hendrix
Marty Hendrix, City Secretary

APPROVED
CITY COUNCIL

FEB 19 2008

Marty Hendrix
City Secretary of the
City of Fort Worth, Texas



CITY OF FORT WORTH

EXHIBIT A

Being a tract of land situated in the City of Fort Worth, Tarrant County, Texas and being a portion of Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION, an addition to the City of Fort Worth, Tarrant County, Texas as recorded in Volume 388-58, Page 846 of the Plat Records of Tarrant County, Texas (P.R.T.C.T.) and a portion of Lot 2, Block 1, STANDARD MEAT COMPANY ADDITION, an addition to the City of Fort Worth, Tarrant County, Texas as recorded in Volume 388-114, Page 881 of the P.R.T.C.T. and a portion of Lot 1 and a portion of Lot 2, Block 1, GULF STATES SUBDIVISION, on addition to the City of Fort Worth, Tarrant County, Texas as recorded in Volume 388-66, Page 25 of the P.R.T.C.T. and deeded to Design Foods, Inc. in Volume 10968, Page 1433 and being a portion of a 0.48 acre tract of land deeded to Design Foods, Inc., as recorded in Volume 10968, Page 1433 of the Deed Records of Tarrant County, Texas (D.R.T.C.T.) and a portion of a 0.517 acre tract of land deeded to Design Foods, Inc. as recorded in Volume 10968, Page 1433 of the D.R.T.C.T., said tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found for corner in the most southerly west line of said Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION, said 5/8 inch iron rod being North 00 degrees 01 minutes 16 seconds West, a distance of 19.19 feet from the most southerly southwest corner of said Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION and being in the east line of Lot 3, Block 1, ALPHA ADDITION, An addition to the City of Fort Worth, Tarrant County, Texas as recorded in Volume 388-113, Page 333 of the P.R.T.C.T., said 5/8 inch iron rod also being in the north right-of-way line of East First Street (0 68.0' right-of-way);

THENCE North 00 degrees 01 minutes 16 seconds West, with the most southerly west line of Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION, a distance of 305.83 feet to a 1/2 inch iron rod found for the west interior corner of said Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION, said iron rod also being the northeast corner of said Lot 3, Block 1, ALPHA ADDITION;

THENCE North 89 degrees 56 minutes 30 seconds West, with the most westerly south line of said Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION and the north line of said ALPHA ADDITION, a distance of 140.10 feet to a 1/2 inch iron rod found for the most westerly southwest corner of said Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION and for the northwest corner of said ALPHA ADDITION, said 1/2 inch iron rod also being in the east line of Lot 1, Block 1, ALPHA ADDITION, an addition to the City of Fort Worth, Tarrant County, Texas as recorded in Volume 388-93, Page 295 of the P.R.T.C.T.;

THENCE North 00 degrees 01 minutes 16 seconds West, with the most westerly line of said Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION and the east line of said Lot 1, Block 1, ALPHA ADDITION, a distance of 100.00 feet to a 5/8 inch iron rod found for the northwest corner of said Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION and the northeast corner of said Lot 1, Block 1, ALPHA ADDITION, said 5/8 inch iron rod also being in the southeasterly right-of-way line of the Chicago Rock Island & Gulf Railroad (CRI & GR);



CITY OF FORT WORTH

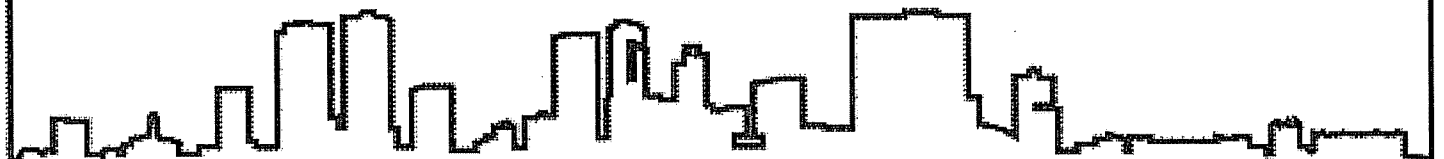
THENCE North 54 degrees 28 minutes 17 seconds East, with the northerly line of said Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION and with the said southeasterly right-of-way line of the CRI & GR, a distance of 728.00 feet to a 5/8 inch iron rod found for the northeast corner of said Lot 1, Block 1, STANDARD MEAT COMPANY ADDITION, said 5/8 inch iron rod also being the northwest corner of said Lot 2, Block 1, GULF STATES ADDITION;

THENCE North 54 degrees 21 minutes 17 seconds East, with the said southeasterly right-of-way line of the CRI & GR and with the northerly line of said Lot 2, Block 1, GULF STATES ADDITION, a distance of 253.40 feet to a 5/8 inch iron rod found for corner, from which a fence post found for the northeast corner of said Lot 2, Block 1, GULF STATES ADDITION bears North 54 degrees 21 minutes 17 seconds East, a distance of 377.12 feet;

THENCE South 00 degrees 17 minutes 36 seconds East, a distance of 313.34 feet to a 5/8 inch iron rod found for corner;

THENCE North 89 degrees 38 minutes 48 seconds East, a distance of 16.60 feet to a 5/8 inch iron rod found for the most southerly interior corner of said Lot 2, Block 1, GULF STATES ADDITION, said 5/8 inch iron rod being in the north right-of-way line of T.N. Austin Avenue (a 31.5 right-of-way);

THENCE North 89 degrees 51 minutes 53 seconds West, with the north right-of-way line of said East First Street, a distance of 676.19 feet to the POINT OF BEGINNING and containing 521,691 square feet or 11.976 acres of land, more or less.



CITY OF FORT WORTH

Exhibit B

Bobby Cox Companies, Inc., MSD
11.976 Acre Tract

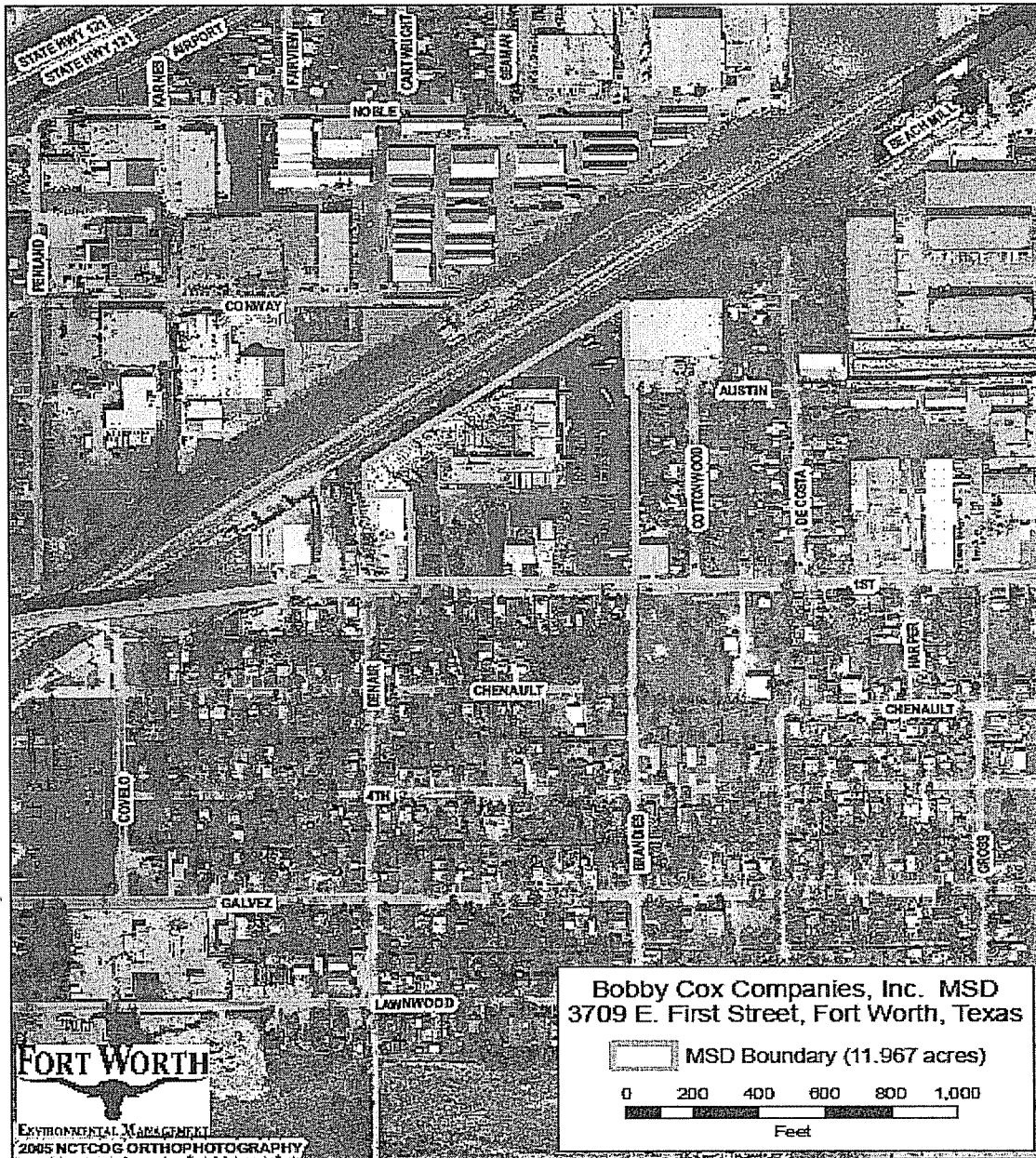
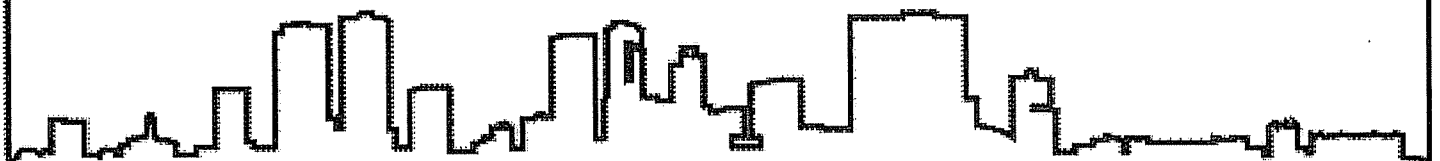


EXHIBIT B



CITY OF FORT WORTH

City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 2/19/2008 - Res. # 3583-02-2008 & Ord. # 17988-02-2008

CONTINUED FROM A PREVIOUS WEEK

DATE: Tuesday, February 05, 2008

LOG NAME: 52MSD_FIVESTAR

REFERENCE NO.: G-16040

SUBJECT:

Adopt a Resolution Supporting the Application of Bobby Cox Companies, Inc., for a Municipal Setting Designation for the Property Located at 3709 East First Street, Fort Worth, Texas, to the Texas Commission on Environmental Quality, and Adopt Ordinance Prohibiting the Potable Use of Designated Groundwater from beneath the Site

RECOMMENDATION:

It is recommended that the City Council:

1. Conduct a public hearing on the application of Bobby Cox Companies, Inc., for approval of a Municipal Setting Designation for the property located at 3709 East First Street, an approximately 11.976-acre tract, more fully described as Standard Meat Company Addition, Block 1, Lot 1, Fort Worth, Tarrant County, Texas, to allow the public the opportunity to give testimony;
2. Adopt the attached resolution supporting the Applicant's application to the Texas Commission on Environmental Quality for a Municipal Setting Designation for the Site; and
3. Adopt the attached ordinance prohibiting the potable use of designated groundwater from beneath the site.

DISCUSSION:

In 2003, a state law became effective creating the concept of a Municipal Setting Designation (MSD). The purpose of a MSD is to certify properties in order to limit the scope of or eliminate the need for investigation of or response actions addressing contaminant impacts to groundwater that has been restricted from use as potable water by municipal ordinance. An applicant, usually the property owner, must apply to the Texas Commission on Environmental Quality (TCEQ) for certification of property as a MSD. If granted, the applicant will not be required to clean up designated groundwater on the site to drinking water standards, although other cleanup standards such as inhalation, contact, and impact to ecological receptors, must still be met. The application will not be approved by the TCEQ if the municipality where the site is located does not give formal approval. That approval must be by means of a city council resolution supporting the application and an ordinance prohibiting potable use of groundwater in the MSD area (potable water is water used for irrigating crops intended for human consumption, drinking, showering, bathing or cooking purposes).

In January 2005, City Council adopted an ordinance creating a procedure to bring a MSD application before City Council. The procedure includes filing an application with the City, staff review of the application for potential impacts to City interests, a public meeting held for the purpose of providing information on the application to the affected community, and a public hearing.

On December 17, 2007, Bobby Cox Companies, Inc., filed an application with the City seeking support of a MSD at 3709 East First Street, Fort Worth, Texas. Staff from the departments of Engineering, Environmental Management, Planning and Development, Transportation and Public Works, and Water, reviewed the application for potential impacts to City interests. No significant concerns were identified.

Notice was issued as required by ordinance, and public meetings were held at Five Star Custom Foods, 3709 East First Street, Fort Worth, Texas, on January 23, 2008, and January 30, 2008. Six representatives of the Applicant, three city staff and eight residents of Fort Worth and surrounding cities were in attendance on January 23rd. At the January 30th public meeting, no residents of Fort Worth attended however five representatives of the Applicant and two city staff were present. No comments from residents adverse to this application were received.

The groundwater that is sought to be restricted is shallow, perched groundwater that occurs from grade to an approximate depth of 25-feet below ground surface (bgs). The shallow groundwater unit is underlain by several limestone and clay formations that extend from approximately 25-feet bgs to approximately 375-feet bgs. These formations serve as a regional aquitard that prevent vertical migration of the chemicals of concern in the shallow groundwater to the underlying aquifers. The chemicals of concern identified in groundwater beneath the site exceeding applicable Tier 1 Texas Risk Reduction Program (TRRP) Residential Protection Concentration Levels (PCLs) include tetrachloroethylene (PCE) and trichloroethylene (TCE).

The Fort Worth Water Department provides water service to all existing residential and commercial/industrial properties within the City limits of the City of Fort Worth, within one-half mile of the MSD boundary. All undeveloped properties (within the City Limits of the City of Fort Worth) within one-half mile of the Site are eligible to receive water service from the Fort Worth Water Department in accordance with the Texas Water Service Certificate of Convenience and Necessity (CCN) No. 12311 (City of Fort Worth) and the City of Fort Worth Policy for the Installation of Community Services. There are no other cities within one-half mile of the MSD boundary.

The Site is located in COUNCIL DISTRICT 8 and is zoned K – Heavy Industrial.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that this action will have no material effect on City funds.

TO Fund/Account/Centers

FROM Fund/Account/Centers

Submitted for City Manager's Office by:

Libby Watson (6183)

Originating Department Head:

Brian Boerner (6647)

Additional Information Contact:

Michael Gange (6569)
